

**CITY OF NEWARK
DELAWARE**

COUNCIL MEETING MINUTES

July 8, 2019

Those present at 6:30 p.m.:

Presiding:	Mayor Jerry Clifton Deputy Mayor Stu Markham District 1, James Horning District 3, Jen Wallace District 4, Chris Hamilton District 5, Jason Lawhorn
Absent:	District 2, Sharon Hughes
Staff Members:	City Manager Tom Coleman City Secretary Renee Bensley City Solicitor Paul Bilodeau Chief Communications Officer Kevin Liedel Assistant to the Manager Jeff Martindale Electric Director Bhadresh Patel Finance Director David Del Grande Parks and Recreation Director Joe Spadafino Planning and Development Director Mary Ellen Gray Public Works and Water Resources Director Tim Filasky

(Secretary's Note: Due to a malfunction with the audio recording, these minutes were drafted using the Livestream video recording of the meeting, including the timestamps.)

1. Mr. Clifton called the meeting to order at 6:30 p.m.

2. **EXECUTIVE SESSION**

A. Executive Session pursuant to 29 Del. C. §10004 (b) (4) for the purposes of a strategy session, including those involving legal advice or opinion from an attorney-at-law, with respect to pending or potential litigation, but only when an open meeting would have an adverse effect on the litigation position of the public body.

MOTION BY MR. MARKHAM, SECONDED BY MS. WALLACE: THAT COUNCIL ENTER EXECUTIVE SESSION A, PURSUANT TO 29 DEL. C. § 10004 (B)(4) FOR THE PURPOSE OF A STRATEGY SESSION INCLUDING THOSE INVOLVING LEGAL ADVICE OR OPINION FROM AN ATTORNEY-AT-LAW, WITH RESPECT TO PENDING OR POTENTIAL LITIGATION, BUT ONLY WHEN AN OPEN MEETING WOULD HAVE AN ADVERSE EFFECT ON THE LITIGATION POSITION OF THE PUBLIC BODY.

MOTION PASSED. VOTE 6 TO 0.

Aye – Clifton, Hamilton, Horning, Lawhorn, Markham, Wallace.

Nay – 0.

Absent – Hughes

3. **RETURN TO PUBLIC SESSION**

A. Potential Vote to Give Direction to the City Solicitor

0:06

MOTION BY MR. MARKHAM, SECONDED BY MS. WALLACE: THAT THE CITY APPOINTS THOMAS MARCONI AS SPECIAL COUNSEL TO ASSIST THE CITY SOLICITOR IN PREPARING AND PURSUING LITIGATION AGAINST NEW CASTLE COUNTY INVOLVING THE LOCAL SERVICE CREDIT.

MOTION PASSED. VOTE 6 TO 0.

Aye – Clifton, Hamilton, Horning, Lawhorn, Markham, Wallace.

Nay – 0.

Absent – Hughes

4. MOTION BY MR. MARKHAM, SECONDED BY MS. WALLACE: THAT COUNCIL REMOVE ITEM 3D FROM THE AGENDA.

0:23

MOTION PASSED. VOTE 6 to 0.

Aye – Clifton, Hamilton, Horning, Lawhorn, Markham, Wallace.

Nay – 0.

Absent – Hughes

5. **SILENT MEDITATION & PLEDGE OF ALLEGIANCE**

0:38

Mr. Clifton asked for a moment of silence and the Pledge of Allegiance.

6. 1. **PUBLIC PRESENTATIONS:** None

7. 2. **ITEMS NOT ON PUBLISHED AGENDA**

A. Elected Officials who represent City of Newark residents or utility customers

1:15

Representative Paul Baumbach requested to speak again after Senator Sokola arrives. He stated with regard to the Local Service Credit matter, a task force will be assigned to look at the local fee in future years. He encouraged the Council members to reach out to their local residents to get a seat as one of the appointees on the task force. He noted that at the meeting, they disagreed on some things, but the consensus was they would be working together in the future so the local fee can be done properly for both City and County residents. He said he looks forward to Council's participation with this issue in the future. He announced that he and Senator Sokola are two of the four legislators co-chairing that task force. He reported he is still recovering from June 30 and asked if there are any questions he could field from Council. He thanked Council for their service.

Mr. Clifton announced for the benefit of the public that Representative Baumbach took the bull by the horns in recommending a bipartisan committee to look at what the County is doing not only just in Newark but also in other municipalities such as Middletown. He expressed thanks to Representative Baumbach for doing a great job.

8. 2-B. **UNIVERSITY**
(1) Administration

3:00

Caitlin Olsen, University of Delaware Administration, said UD's Farmers Market opens the upcoming Thursday and is open every Thursday from 11:00 a.m. to 2:00 p.m. She noted this year it is in front of Perkins Hall due to area UD construction primarily on the Green with areas not accessible in that vicinity. She noted she is recently back from vacation and is catching up on email and asked for Council's patience.

Mr. Clifton said his question does not need an immediate answer but noted someone reached out to him that was taking over the University Courtyard and noted there were some issues with the fire suppressant systems that were either not operable or were not code compliant.

Ms. Olsen noted she would investigate the issue.

Upon Senator Sokola's arrival, he and Representative Baumbach came back to dais to address Council. Senator Sokola reported he and Representative Baumbach have worked for the PILOT program for five or six years and had been unsuccessful. However, he reported this year they received \$400,000 in the Grant in Aid bill that is the payment in lieu of taxes (*Secretary's note: the recording is missing from 5:10-5:34*) Representative Baumbach said they do not have this in writing yet, but he reported he, Matt Meyer, County Executive and Senator Sokola would like to provide an additional \$20,000 for the Emerson Bridge Project. He wanted to put that on the table for Council. They thanked Council for encouraging this project and asked they move forward with it. He noted the breakdown of the \$20,000 is \$10,000 additional from the County, \$5,000 additional from Senator Sokola and \$5,000 from himself.

Senator Sokola asked if there were any questions.

Mr. Hamilton thanked Senator Sokola and Representative Baumbach for all of their efforts for working on the \$400,000. He understood it is not a permanent thing, but he appreciated their work.

Ms. Wallace commented it was “a good foot in the door.” Senator Sokola responded it is still a work in progress.

Mr. Markham estimated that \$400,000 equated to \$.06 on the property tax rate and the residents contributed a significant amount of money and he appreciated Representative Baumbach and Senator Sokola’s efforts on this issue.

Representative Baumbach reported there are two approved Charter changes awaiting the Governor’s signature, one on the LLC voting matter and the other on sewer for residents living beyond the City limits (to include Covered Bridge Farms). He added to his knowledge there will be no further delays prior to signature by the Governor. Mr. Clifton added he hopes the signature on these matters happens sooner rather than later and he appreciates all their efforts.

Mr. Armitage joined Representative Baumbach and Senator Sokola at the podium and informed them of some additional information about some upcoming dates of when the Governor will be signing some legislation.

9. 2-B-2. STUDENT BODY REPRESENTATIVE(S): None

10. 2-C. CITY MANAGER:

10:35

Mr. Coleman introduced the new Chief Communications Officer, Kevin Liedel. He extended thanks to the Parks and Recreation Department for another well run 4th of July Celebration. He also thanked the University of Delaware for participating and supporting the event and New Castle County for allowing use of their portable stage during the event. He noted the event would not be able to happen without support from all of the sponsors.

Mr. Coleman provided a brief update on the issue with the counter at Lot 1 that was raised at the last Council meeting. He said that Lot 1 has two entrances and at each entrance has a counter that counts vehicles when they come into the parking lot. He said one of the two entrance parking sensors has failed which contributed to the count being inaccurate. Since the sensor was down, the parking department was doing hourly, and every other hour walk through to count how many available spaces were in the lot and then updating the sign to keep it in a general range of the number of available spaces. Staff believed it was more important for someone driving by to see that there were spaces available than the actual number of available spaces. He noted the sign is now off as the sensor was pulled out of the ground and sent for repair. Mr. Coleman reported there will always be adequate parking spaces available in Lot 1 over the summer no matter what the counter is saying. He hopes the sign will be back up and functional within the next few weeks.

Mr. Coleman reported that there was a large power outage over the weekend. He estimated it affected approximately 4,000 customers. He said crews were able to get the power back on within an hour. While investigating, the crew found it was caused by a snake in a transformer. Staff will now look for ways to “snake proof” if that is a possible option. He reported there was also an outage in Villa Belmont which was of greater consequence for those impacted. He said there was an underground cable that failed which knocked out power in two buildings including fire alarms that did not have battery backup. Therefore, residents were encouraged to relocate to alternative accommodations until power was restored. He noted that Red Cross and Aetna set up temporary shelter in Station 8 that was utilized by a few residents Saturday afternoon. Mr. Coleman reported temporary power was restored on Saturday afternoon after lunch enabling residents to relocate back to their homes. He noted that it would take several weeks to get the permanent lines back in place and most likely will have to be wrapped in different ways than originally done and will be slightly more complicated. He said fire marshals are working on battery backup.

Mr. Coleman said a question had been raised relating about Planning Commission minutes before Council sees a development plan. He noted that it was discussed at the last Council meeting whether the minutes need to be approved minutes or if draft minutes would be acceptable. The minutes do not change considerably in substance. He noted the audio is also available on the City’s website and the meetings may be livestreamed in the future. It did affect a project immediately due to the cancellation of the July Planning Commission meeting. Mr. Clifton asked if Council objected to doing it this way. Ms. Wallace deferred to the City Solicitor’s opinion. Mr. Bilodeau said the ideal circumstance would be to go with minutes that were approved but noted in special circumstances if the minutes were not approved, it may be okay to proceed. He used the example of a recent circumstance where a developer by not fault of their own was not able to proceed in a timely manner to the Planning Commission. He also noted the minutes rarely change and Council always has the option to listen to the audio of the minutes.

Mr. Markham believed the draft minutes are adequate except for immaterial issues and reiterated that Council is able to listen to the any audio of the Planning Commission.

Ms. Wallace was okay with Mr. Bilodeau's opinion and asked that draft minutes be included in Council's packet with the development project details.

Mr. Horning asked if there were to be material changes in the minutes, Council should be alerted as that would happen after Council would review them as part of their Council packet item and Council would have the option to revisit the matter. Mr. Bilodeau said that Council would vote on a development project based upon draft minutes and after the vote it may be revealed the draft Planning Commission meeting minutes have a material error. If that were the case, the Council decision would then not be a final decision, which would not be an acceptable result. He noted he attended Planning Commission meetings and he would point out any potential errors especially in the voting process that may occur during the meeting prior to Council making a final decision.

11. 2-D. COUNCIL MEMBERS:

20:55

Mr. Hamilton:

- Thanked all for the July 4th festivities.

Ms. Wallace:

- Shared that a resident expressed concern over the storm drains on Barksdale up to Rt. 273 were particularly cluttered.
- Reminded Council that if the Rules and Procedures are approved at this meeting, the end time for this meeting will be 10:00 pm.

Mr. Clifton:

- Reported that Katherine Sheedy, Commissioner on the Conservation Advisory Commission has resigned.

12. 2-E. PUBLIC COMMENT:

23:00

Brian Anderson, District 5 expressed concern about the mature Crepe Myrtle trees in parking lot 3. He asked the City strongly to consider saving the six trees by relocating them to a park, recreation site or the new public housing development on Cleveland Avenue. He believes they are valuable and would them saved for the enjoyment of everyone.

Mr. Spadafino said he would ask City Arborist, Tom Zaleski to evaluate the trees. He did note however; it is frequently difficult and challenging to relocate mature trees without damaging them.

John Morgan, District 1 stated there are issues with the storm drain on Casho Mill Road nearest Julie Lane is always clogged. Mr. Coleman noted that storm drain does not have an outlet and is a DeIDOT storm drain. Dr. Morgan said he has often noticed speeding vehicles in that vicinity as well. He suggested having a traffic calming circle or something similar put in on Casho Mill Road nearest Julie Lane and also another one on the south side nearest Thorn Lane to force traffic to slow down. He also suggested additional signage.

He also wanted to mention the meeting location matter again. He wanted to point to out that an essential requirement, in his opinion, is that the meeting location be accessible to public transportation. In that vein, he wanted to note that the George Wilson Center is only close to the University bus service. He believes Main Street is a good location as it is convenient to the bus line. He noted he attended some Parking Subcommittee meetings in the George Wilson Center and believes it would have been beneficial had this committee hold their meeting on Main Street as they would be able to view actual parking spaces they are considering during their meeting.

Jean White, District 1 wanted to talk about the trees in Lot 1 and the houses at 42 and 46 East Delaware Avenue. She wanted the trees in that area to be considered for preservation as well. She believes a mature tree in good condition should be salvaged. She asked that a staff member respond to her after their review before any further steps are taken.

Mr. Spadafino said he would have the trees inspected and would let Mrs. White know the outcome before anything is done to the tree.

13. 3. **APPROVAL OF CONSENT AGENDA:**
- A. Approval of Council Meeting Minutes – June 10, 2019
 - B. Approval of Special Council Meeting Minutes – June 17, 2019
 - C. Approval of Council Meeting Minutes – June 24, 2019
 - E. **First Reading – Bill 19-15** – An Ordinance Amending Chapter 20, Motor Vehicles, Code of the City of Newark, Delaware, By Temporarily Removing the Right Turn on Red Restriction at the Intersection of Chapel Street and East Main Street – **Second Reading – July 22, 2019**
 - F. **First Reading – Bill 19-16** – An Ordinance Amending Chapter 20, Motor Vehicles, Code of the City of Newark, Delaware, By Prohibiting Parking at All Times on the North Side of Country Club Drive East of Stamford Drive – **Second Reading – July 22, 2019**
 - G. **First Reading – Bill 19-17** – An Ordinance Annexing and Zoning to RH (Single Family Detached Residential) 7.4 Acres Located at 1089 and 1091 Elkton Road – **Second Reading – August 12, 2019**
 - H. **First Reading – Bill 19-18** – An Ordinance Amending the Zoning Map of the City of Newark, Delaware, By Rezoning from MOR (Manufacturing/Office/Research) to RH (Single Family Detached Residential) 0.61 Acres Located at 0 Elkton Road – **Second Reading – August 12, 2019**

32:29

Ms. Bensley read the consent agenda into the record.

MOTION BY MS. WALLACE, SECONDED BY MR. MARKHAM: TO APPROVE THE CONSENT AGENDA AS PRESENTED.

MOTION PASSED. VOTE: 6 to 0.

Aye – Clifton, Hamilton, Horning, Lawhorn, Markham, Wallace.

Nay – 0.

Absent – Hughes

14. Mr. Coleman was able to provide an update to Ms. White’s concerns as a staff member was watching via livestream. He noted the tree closest to Delaware Avenue will be saved.

15. 4. **ITEMS NOT FINISHED AT PREVIOUS MEETING:** None

16. 5. **APPOINTMENT TO BOARDS, COMMITTEES AND COMMISSIONS:** None

17. 6. **SPECIAL DEPARTMENT REPORTS:**

- A. **Resolution No. 19-__:** Amending the Rules of Procedure for the 2019-2020 Council Year

34:34

Ms. Bensley gave a brief overview and recap of the proposed revisions for the 2019-2020 Rules of Procedure. She noted the discussion items from previous Council meetings have been incorporated.

Mr. Clifton opened up the discussion to questions from the table.

Mr. Lawhorn asked Ms. Bensley if she would provide a brief overview of her memorandum detailing the costs associated with the proposed additional meetings.

Ms. Bensley reported she had reached out to all department heads and asked them to provide estimates with regard to the costs associated with ten hours of additional meetings per month which equates to two 2-hour meetings and two 3-hour meetings as the best case scenario and nineteen hours of meetings per month which would be two 3-hour, two 5-hour regular meetings as well as an additional 3-hour special meeting since the additional special meeting had been brought up as a worst case scenario. Ms. Bensley asked the department heads to include meeting attendants as well as preparation time (for hard and soft costs) as well as staff meetings and follow up times for recommendations, etc. Current estimates indicate expenditures of \$212,000 a year on staff for meetings and best-case scenario with four meetings it was estimated a 28% increase to \$271,500 and worst case scenario approximately 89% increase up to \$402,000. She noted however, the hard and soft costs cannot be accurately calculated until the meetings start to happen and time can be tracked better. She noted if this is approved the intent is to return to Council with more accurate costs within two months after the initial change along with budget amendments that may be needed at that time. She added the majority of the department heads broke out the costs by determining who the employees would be tasked with the associated work including best

and worst-case scenario and added their hourly rate. She noted there were some departments who did not break down the costs but provided the bulk processing cost and she estimates it to be a 60/40 split.

Mr. Lawhorn noted this has been discussed a lot, but he would like to note a few key points. He wanted to emphasize the added costs could be significant and noted another key point is those same employees would be the employees not available to perform their normal job functions and will contribute to a staff that is already stretched to the minimum from a resource standpoint. He asked that Council consider reducing the proposed four meeting schedule down to three. He suggested dropping one of the two shorter meetings at least while the matter is thoroughly evaluated to determine the true actual costs. He believes once the step is taken down that path, it may be hard to return. He also noted costs have increased due to the already increased length of meetings within the last few years. He is very concerned about the long-term implications of adding meetings and does not believe there will be much benefit derived from the proposed additional meetings. He asked Council to consider dropping at least one of the proposed meetings.

Mr. Horning voiced similar concerns as Mr. Lawhorn especially around the costs including the "opportunity" costs including the added cost associated with the additional hours for the City Solicitor. He believed that going forward there would be a good dialog with staff and Council to the reality of actual costs going forward with any proposed additional meetings. He reminded all he did vote against going to four meetings and would prefer going to the three-meeting schedule. In terms of the proposed new agenda, he suggested moving the lobbyist to after Council members speak in the first and third meeting schedule and should also be considered as an option for the second and fourth meetings as well. He also believes a weekly meeting in June would be very helpful from a lobbyist standpoint in that there is much information for the lobbyist to provide. He also suggested the recommendations on contracts and bids to the very end of the meeting to allow the public to speak earlier and to allow the developers and attorneys associated with the projects to leave earlier as well. Mr. Horning also commented on the verbatim meeting minutes versus transcript type minutes and asked if there was any cost savings associated with verbatim minutes.

Ms. Bensley addressed Mr. Horning's questions. She stated the lobbyist would continue to be slated under Special Departmental Reports and would be on both agendas and would remain in this proposal. In the past, it was under the Items not on Published Agenda, but Council elected to change that because items in the that category are not open to public comment, thus the change. Ms. Bensley's recommendation is to leave it under Special Department Reports because that item will be on every agenda and the public will be able to comment on items the lobbyist discussed.

Ms. Bensley noted on the category on ordinances and land use plans, she does not have any particular recommendation except that contracts and bids are covered rather quickly so if there are timing issues then they may not be able to be covered during a meeting. She added that contracts and bids are rarely controversial but there are times that development projects may be so and require more time on the agenda. As such, there may be staff in attendance (getting paid) waiting for an agenda item that never happens. With regard to meeting minutes, Ms. Bensley noted in the past they had been sent out to an outside vendor for transcripts but the issue is the turnaround time is not satisfactory and the accuracy is not acceptable due to the detail required including speaker's names, acronyms, etc. She noted the amount of time spent to accurately proof the minutes often takes as long as were they typed by a staff member without using the transcription service. She said this circumstance would apply both to verbatim or detailed summary minutes and although she noted she does not have a preference either way. She noted the length of verbatim minutes are significantly longer (at least double).

Mr. Horning asked if comp time or overtime is used for City staff to attend Council meetings. Mr. Coleman said generally the hope is to flex the time for staff that attends especially with management. However, he reiterated the point that when this option is used, staff may not be around as much to get their work done during regular business hours.

Ms. Wallace suggested including on the first and third Monday meetings under 4B presentations from outside organizations to Council and she recommends the time limit remain. The existing time recommendation is fifteen minutes and she would even recommend ten minutes. She believes any conversation around minutes should be separate as this has been raised before and there are many aspects to the process and that conversation. She thanked the City Secretary for putting this agenda item together.

Mr. Markham said he would prefer three meetings and is especially concerned about the cost. He would prefer the ten-minute limit on outside presentations. He believes this topic has been discussed at length and should move forward. If it does not seem to be working out, it can be revisited.

Mr. Hamilton suggested trying out what was voted on and see if it works out. He reminded all that meetings could be cancelled if needed.

Mr. Clifton believes there should be a ten-minute time limit on outside presentations. He noted with regard to Mr. Horning's point regarding contracts and bid and ordinances for second reading, he wanted to remind all that the items that may be considered important items to the public should happen earlier and quicker in the night so residents are not required to stay late.

Ms. Bensley suggested if the item was moved, to move the item before departmental reports and bids and contracts because then it would essentially be at the top of the agenda. She added, just moving bids and contracts will not save significant time then multiple categories need to be moved.

Mr. Coleman said he would rather move special departmental reports and noted they should also be on the first and third Monday meetings.

Ms. Wallace reminded all that typically the special departmental reports require some staff member to be present for presenting and/or questions and this means they could be in attendance unnecessarily very late and if they are using flex time, they may be unavailable during the day when needed.

Ms. Bensley reminded all that FOIA rules will also have to be followed. Therefore, the agenda for the upcoming meetings will be out before that evening's meeting happens.

Ms. Bensley confirmed the July 22 meeting will follow the existing format with the new format with August 5 and August 12.

Mr. Lawhorn asked how the determination would be made to cancel a meeting. Mr. Clifton stated it would fall under the purview of the City Manager as he knows what is in the pipeline in conjunction with the Mayor.

The Chair opened the discussion to public comment.

John Morgan, District 1, said he was reviewing the March 25 minutes during which there were three development projects on the agenda took significant time. He believes there should a requirement if a land use project clears the Planning Commission with less than a unanimous vote, it should have a have its own Council meeting without having other development projects on the agenda so there is adequate time for discussion. He also wondered why it is necessary to have police officers attend the Council meeting as he does not believe they attend the Planning Commission meetings.

Dr. Morgan believed at the March 25 meeting there was discussion about the deficiencies in the Comprehensive Development Plan with quotes from Mr. Hamilton and former Councilman Morehead agreeing to this as well with Mr. Clifton saying the plan is flawed and Mr. Markham asking for a review of the plan. He asked for Council to consider having at least three extra meetings within the next few months to address these as well as other concerns.

Jean White, District 1, asked if the existing Council meeting minutes would be considered summary minutes. Ms. Bensley confirmed this. Ms. White said she would hate to see the minutes changed to actual summary minutes in that a brief description of the topic and a possible vote would be the only things mentioned. Ms. Bensley noted the language in the proposed resolution for the Rules of Procedure contained no changes to the way the meeting minutes were produced, and they would remain as is.

Mr. Clifton added the topic of summary minutes versus verbatim minutes was brought up by Council in 1998 and it was determined the costs to provide verbatim minutes would be astronomical over what is being provided today. He also added the matter was brought to the Attorney General's Office and they provided a response stating the meeting minutes were well done.

Mr. Lawhorn reminded all there had been the suggestion to build an agenda with timing in mind and noting the time references on the agenda with hopes to avoid having agendas too lengthy.

Mr. Clifton believed the City Manager and staff get direction from Council on the building of an agenda. Mr. Coleman reported that he and Director Gray frequently get pressure from developers to get their projects on an agenda quickly. He and Ms. Gray told developers they must give 90 days from the first submission to the Planning Commission and noted there must be realistic expectations the process in

totality. Similarly, there needs to be clear direction from Council how much they want on each meeting and as such there is no need to rush through Planning Commission meeting to only sit at then next level.

Mr. Clifton asked if Council had any amendments to make.

MOTION BY MS. WALLACE, SECONDED BY MR. HAMILTON: TO MODIFY ITEM 4E ON THE FIRST AND THIRD MONDAYS AGENDA BY ADDING AFTER THE WORD PRESENTATIONS THE PHRASE (TEN MINUTE TIME LIMIT).

MOTION PASSED. VOTE: 6 to 0.

Aye – Clifton, Hamilton, Horning, Lawhorn, Markham, Wallace.

Nay – 0.

Absent – Hughes

MOTION BY MR. MARKHAM, SECONDED BY MS. WALLACE: TO APPROVE THE RULES AND PROCEDURES RESOLUTION AS AMENDED.

MOTION PASSED. VOTE: 5 to 1.

Aye – Clifton, Hamilton, Horning, Markham, Wallace.

Nay – Lawhorn

Absent – Hughes

18. 6-B. GENERAL ASSEMBLY UPDATE AND ASSOCIATED REQUESTS FOR COUNCIL DIRECTION – LOBBYIST

01:08:18

Mr. Armitage recapped the \$400,000 in the Grant in Aid bill was a wonderful surprise, as reported by Senator Sokola and Representative Baumbach. He stated that he will be watching next year how things unfold around minimum wage which is currently \$8.75 hourly to increase in October to \$9.25 hourly. Legislation was introduced to move to \$11.00 per hour on January 1st. He noted that it is still sitting in Committee and has not moved but suspects there will be some action next year. He was not certain what the impact will be. He stated if it passes it probably gives enough time to readjust the budget that is what happened with the realtors' bill which had a statewide impact of almost \$400,000 but the date of implementation changed to July assuming that municipalities has already put their budgets together. He stated that the concern with the realtors' bill is the preemption taken by the state from the municipal jurisdictions. His advice to Council is to include justification to ask to add more Municipal Street Aid.

Mr. Coleman expanded on the topic of the realtors' bill and stated his concern of "who comes asking next to get an exemption business license." He said the same thing can be said for architects, engineers, anyone in the consulting business who does not have a physical presence where they are working or supplying a service. He asked for clarification on what makes realtors different from consulting in general.

Mr. Armitage responded two other bills to be watched on behalf of the Courts are the suspended fine related to no insurance, that has passed the Senate, but it is still in Committee in the House. He said on behalf of the Solicitor and the Alderman, he believes if there is a way to ensure compliance going forward that will make everyone more comfortable if that legislation passes. He mentioned SB123 which he noted is associated with the work credits for people who are incarcerated that can work off some of their fines. He said that some of the fines paid are not coming back to Newark, they were actually staying with the state. He stated that was what they are attempting to get amended and that is one of the bills to be added next session. Another issue was the recreational use of marijuana. He stated that he did not know what will happen next year they are building up for next year and noted there still may be some human resource issues in Newark.

Mr. Armitage shared bills that were introduced at the end of session. He said the use of paper bags at grocery stores item never came out of committee. He suggested to ask the Conservation Advisory Commission's opinion. He expressed they are fully competent to evaluate whether it is legislation that gives support to the voters and if this is something that makes sense. He announced the alcohol civil violation bill has passed with the amendments that the first two offenses are civil and the third is criminal. He noted that it is the same with the marijuana bill. He stated this is so that all offenses, no matter the age, the first two are civil and the third is criminal. He said that revisions to the Charter mentioned that sewer charter changes. He announced to all that he was unsure if it has gone to the Governor's office yet, but he will investigate that. He asked what Council's direction is.

Mr. Coleman stated with the sewer change, the Code still needed to be changed to make that effective and Public Works is working on that now. He noted that would take the first and second reading to get in place as well. He hoped that the first reading would be in the next meeting.

After discussion, it was agreed that Mr. Armitage would find out if the Governor's schedule permits him to attend the First Responders' Benefit on July 25 and would revisit the issue if Governor Carney was unavailable for that date.

Mr. Armitage stated the Airbnb tax issue still remains outstanding and there is continued discussion with the hotel industry and the Department of Finance and there seems to be some consensus moving forward and believes there will be some legislation about that next year.

Mr. Armitage asked when Council would like him in attendance going forward. He said he is not very excited to attending four Council meetings a month particularly during the month of June. He noted in the past he typically attended one meeting per month to keep Council apprised of what is going on. However, he noted he would attend if there was an agenda item that he was involved in.

Mr. Clifton said this would be incumbent upon how Council felt going forward and if there were questions or concerns from the public.

Ms. Bensley noted if Mr. Armitage is on the agenda there is a seven day advance requirement so if a Council member wants him here so staff would need to know more than seven days in advance if Mr. Armitage will be attending and an agenda item would need to be provided for inclusion.

Mr. Clifton opened the discussion to public comment.

John Morgan, District 1, said in regard to the Charter change to sewer connections, he understands it is critically important to homeowners who have septic systems that are malfunctioning or aged, but he does not believe it is front page news. He believes getting the documents signed and moving forward should be the focus. Regarding the lobbyist's schedule, he believes there is no reason why the lobbyist cannot send his report via email. He believes the most important thing is if Council is giving direction to the lobbyist on legislation, under FOIA this can only occur if Council provides direction when they are in Council Chambers. He believes it is FOIA compliant to have a conversation via Skype, provided all can see each other, hear each other and the public can participate. Ms. Bensley reported there are some states that allow an online bulletin board or a Skype connection where elected officials can communicate but Delaware has not updated their laws to allow that at this time. With that being said, Dr. Morgan reiterated he believed it is very important the lobbyist attend meetings when there is a proposed bill that needs direction from Council. He also added he did not believe the seven-day rule for posting applies if there is an urgent matter that needs consideration.

Mr. Clifton agreed with the sewer connection matter and added his thought process behind this is he believes it is important to give credit to the people who worked hard to do this for their neighbors here in Newark; the legislators and certainly the Governor; and he noted that is the reason why this was brought up.

19. 6-C. WHITE CLAY CREEK BICYCLE AND PEDESTRIAN BRIDGE COST ESTIMATE AND FUNDING – PARKS AND RECREATION DIRECTOR

01:21:16

Mr. Spadafino discussed the White Clay Creek Bicycle and Charles Emerson Pedestrian Bridge cost estimate and funding. He noted that in May, DelDOT was notified that the semi-final plans for the bridge were completed. He noted the reprised estimate for the project increased to \$2,057,000. (*Secretary's Note: No audio on Livestream recording from 1:21:51-1:26:17 [potential funding breakdown on screen].*)

Mr. Spadafino said to cover multi categories for the CIP, the delayed implementation Parks and Recreation Management software would be requested in 2020. He announced the Dickey Park & Play feature and other playground updates will be delayed. He noted that \$10,000 will remain for potential repairs and replacements for 2019. He said all play features meet Certified Playground Safety standards and funding will be requested again in 2020. He announced some hard surface improvement projects will be delayed by one year. He said playground areas will be reevaluated. He estimated that he does not anticipate the need for the full \$283,500 in additional City funding. He stated that staff will establish a plan, if necessary. He announced that this was the information that Council received in email dated July 1st.

Mr. Spadafino said there are a couple of other items that he wanted to add. He announced that notification was received that they have made it to round two in the Outdoor Recreational Parks and Trail Grant application. He said that historically, it has gone well when invited to the second round of the grant application process, but he cannot guarantee that the full \$200,000 grant will be awarded. This information is pending until notification from the committee in October. He announced that they have been awarded to go to second round of the grant process.

Mr. Spadafino announced that Newark is a very active community and noted the trail counters at the Newark Reservoir around the White Clay Creek and Emerson Bridge. He said that 218 final counts at the Newark Reservoir was 101,483 individuals were on the trail. He shared that at different times throughout the year, the trail counters were down. He stated that the State Parks gave the estimated 2019 projection of 134,000 people visiting the Newark Reservoir. That does not include a lot of the individuals that go to Preston's Playground that do not go on the trail, young children and also does not include individuals at the Hunt at Louviers or developments near Redd Park do not have to go to the lower level, they remain on the upper level. He shared the James F. Hall Trail is right behind the reservoir and these are the two most highly visited trails in the state right now. He thought that the addition of this bridge would only enhance those numbers. He noted a private \$1,000 donation that was not added to the totals. He also noted the additional \$20,000 from Representative Baumbach and Senator Sokola. He said there is great support from the community, University of Delaware, New Castle County, CTF funding and the state parks. He extends his appreciation for the support received in funding this project. He said he is available for any questions Council may have. He stated he has representatives from Whitman, Requardt, and Associates that are present that can also answer any additional questions.

Mr. Clifton opened the discussion to questions from Council.

Mr. Markham confirmed the outstanding issues are generally environmental issues, in terms of how to attach the bridge, not having a middle support and the fact that there are electrical wires in the way all contribute to the cost increase.

Jeff Riegner, Whitman, Requardt, & Associates, said there are five primary reasons for the cost of the bridge increased from the original conceptual design.

- Continued increase in steel prices
- Detailed flood plan studies during final design.
- DelDOT bridge review required the bridge to be raised a foot and a half higher than the existing bridge on Paper Mill Road, which increased the cost of abutments and encroachments.

Mr. Markham asked Mr. Riegner for clarification that the pedestrian bridge has to be higher than the top of Paper Mill Road bridge. Mr. Riegner confirmed that is the case. Mr. Markham said that sounds counterintuitive. Mr. Riegner said Mr. Markham spoke to the intermediate pier that was originally proposed on a temporary basis which would have been used to build the bridge on the north bank sliding out across to that temporary pier to the south bank. The agencies that reviewed this project, as it is federally funded, did not provide approval for that temporary pier. The biggest cost driver is that the bridge needs to be built atop the Paper Mill Road bridge and lifted over the power lines into its final position. Crane rental costs and contractor's mobilization costs are very significant based on that element.

Mr. Riegner continued the other primary reasons for the cost increase.

- Slight cost increase in beefing up the structure so that it accommodates not only pedestrian traffic but also emergency vehicles as well.
- Very slight cost increase with relocating traffic signal cabinet that was originally in dispute.

Mr. Riegner clarified primary cost drivers are steel cost increase, height of the bridge and construction method.

Mr. Markham confirmed that steel costs have added tariffs and he asked for confirmation that the weight limit is so the emergency vehicles can get across when the highway bridge is flooded. Mr. Riegner said it would be to handle an emergency on the bridge. Mr. Markham said he thought it was because the bridge was out.

Mr. Spadafino said when the issue was discussed with Whitman, Requardt, & Associates there was a \$15,000 savings to reduce the loading. He stated that saving \$15,000 was not worth it if an individual required emergency assistance and the bridge was unable to accommodate the overweight vehicle. In that case, he estimated the cost to repair the bridge for an overweight vehicle to go across there would far exceed \$15,000.

Mr. Markham asked if the proposal is that the bridge is strong enough to accommodate an emergency vehicle. Mr. Spadafino responded it would accommodate a Ford F150 or F250.

Mr. Markham expressed his concern that if the bridge was to flood, he noted emergency vehicles may not be able to access that part of the City. Mr. Markham noted he believed it was originally former Councilmember Chapman that mentioned the City would essentially be leveraging \$1 for every \$4 they were receiving meaning the City was putting in 20% to receive 80% back. Mr. Spadafino confirmed that was the case.

Mr. Markham asked whose wires were the bridge being lifted over. Mr. Riegner responded they are both the City's and Delmarva's wires. He noted that they have worked closely with the City Electric Department and Delmarva Power to understand what can reasonably be done to make that happen. He said there may be brief service outages or power being redirected using other circuits while this is happening. He stated the bridge will not be lifted over live lines. Mr. Markham suggested to use the bridge for its support rather than lowering telephone poles. He said if you lowered them it would not be necessary to go over them.

Mr. Markham also suggested using solar for the lights on the bridge. He said green energy funds should be able to be utilized for this. Mr. Riegner noted that the grant estimate did not include lighting. He said there is lighting nearby on the roadway. He acknowledged Mr. Markham's suggestion by stating using different funds will be considered in the future. Mr. Coleman noted that was the reason that lighting was taken out of the base project because they felt comfortable using different funding sources for the lighting at a later date.

Mr. Markham announced that he was the private donation of \$1,000 and noted it was clear where he stood on the issue. He said it seemed to be a pattern in his district to use other people's money to do projects like McKees Park with Green Energy funds, Curtis Mill was Brownfields money and the reservoir, while it was referendum money, it paid back \$1 million a year. He said it was a trend to use other people's money. He noted it was a worthwhile investment for the City to put money into this and other projects are funded without getting matches or grants or state funds. He thought the City could come up with this amount of money to do this project.

Ms. Wallace reminded all that Council already decided to do this project and did not think this was the time to revisit the project. She noted that the over \$377,000 that the City is responsible for made approving the increase a "no brainer." She was not happy about the increase. She said she would have liked to have had a discussion and it was anticipated while proofing this project, that there was a possibility that the pier may not be approved. She said if the changes were going to exceed \$377,000 then this may have been a different conversation. She questioned how the City is going to pay for it. She noted she is not happy about the delays with funding particularly the children's play equipment and Dickey Park. She thought that was an area that has been neglected by the City. She said she did not want to see that delayed. She said the hard surface improvements were approved from the referendum. She stated she does not think that those funds should be used differently than what was described in the referendum. Even though this is technically similar, paving a hard path, it was not on the table for consideration. She said she is fully comfortable if Mr. Spadafino can wait on the recreation management software. She noted if Council approved the reductions as outlined in the memo calculates a little over \$56,000 difference and suggested to find a different funding source. She thought that items #2 or #3 should not be used.

Mr. Horning referenced minutes from September 18, 2017 meeting that included that the bridge would be prefab and the manufactured would get it down to 10'. He asked if that was still the case or has it changed. Mr. Reigner said it had changed and the span length has decreased very slightly and he believes at this time that slight difference allows them to go to a 10' wide bridge, if necessary, but that required confirmation. Mr. Horning asked if the environmental agency rulings on the temporary pier can be revisited or is it a done deal. Mr. Reigner believed it was unrealistic to think the decision can be changed.

Mr. Lawhorn agreed with the majority of what has already been said and he echoed Mr. Markham's lighting recommendations. He said regarding where the funding comes from. He thought Ms. Wallace made a good point that some of that funding comes from his district as well. Mr. Spadafino noted that they tried to identify projects that could be delayed a year. Mr. Lawhorn agreed that if those can wait a year. He noted it has been a long time coming for the children's equipment in Dickey Park. He said that if it came to a point where the City cannot find it elsewhere and it is a matter of prioritizing, he suggested to wait a year to get those park surfaces redone and prioritize Dickey Park higher.

Mr. Lawhorn said he spoke to his residents about funding options and the response was a little mixed. He expressed that the majority of his residents want a 12' wide bridge. He noted within the last year or more that people are concerned about the width from a safety standpoint for pedestrians and bikers. He said with the numbers and cost reduction, he would prefer to make it a 12' wide bridge. Regarding the other options, he would "lean on" their expertise and recommendation if they believe it is something that should be included. He is okay with option #2 or #3.

Mr. Clifton felt this was easily predictable. He referenced September 2017 when the cost went from \$1,000,000 to \$1,750,000 and it was still two years out, it did not take a finance major to realize that the cost was going to increase. He said things are being pulled from other great projects to get this completed. He said is going to vote for it because otherwise the City will lose the invested \$377,000. He noted the options are lose a third of a million dollars or go forward with it down and he anticipates it will be \$400,000 out of pocket which he understands because that is a good price for a \$2,000,000 bridge. His concern is that people will say that government will consider this as "no big deal," when it is a big deal. He thanked the Council members that donated money towards the project. He announced his opinion is to go with the 12' bridge with the enhancements. He expressed that if it is not built to maximum, something unpredictable may occur that will require the extra 2'. He expressed a concern with "cheaper," which could be interpreted as quicker replacement and maintenance costs. That could pose a safety issue. He suggested building it to its maximum potential. He spoke about the topic of grants and the statements of some that there is free money which does not exist.

Mr. Clifton opened the discussion to public comment.

John Morgan, District 1, shared he was concerned about safety issues from the beginning. He said the consensus for the width of the bridge to be 12'. He announced his comments are based on the time he spends on campus in the evenings when you have a lot of young people riding bikes without lights, oftentimes wearing headphones and sometimes using their phones while cycling and not paying attention. He expressed his concern with potential collision of fast-moving cyclists and pedestrians on this narrow bridge. He urged that the width of the asphalt surfaces leading to the bridge on either side on the trail. He suggested that they are 12' to provide extra width and a stripe down the middle as on New Linden Hill Road trail. He also suggested there is a symbol for bicyclists on one side and a symbol for pedestrians on the other. He noted that there are many students that English is not their native language. He noted from personal experience that some of those students do not understand spoken English very well. He said clear signage would aid those students. He firmly believes that pedestrians should be on one side and bicyclists on the other. He also expressed concern about the lighting. He thinks that the plan should be that the light should be installed in a day or two of installation of the bridge and trail. He reported that he noticed students riding bicycles without lights even though it is illegal. He said the University does not enforce that rule and Newark police does so sporadically. He believes that the whole trail, not just the bridge itself, should have good lighting, similar to the trail between the Rodney and Dickinson buildings. He noted on the north side of the trail, tall trees that are in between the trail and the roadway. He said the trees will prevent adequate light on the trail, even from the streetlights. He suggested use of solar powered lights on the trail. He believes it should be adequate lighting on the trail throughout the night.

Robert McBride, District 1 and BikeNewark Chair, expressed support of this project since it has been proposed. He believed it is a great investment and noted the trail counts and the large amount of people that use the area trails. He said the trail is a way to connect places that are not connected at the present time for non-stress bicycle users. He announced their big push is to get places in the City connected for non-stress route. He noted that the existing bridge is one of his most memorable bicycle crashes. He said it will be easier and safer for the people that live on the north side of the creek to get to Newark. He expressed his appreciation for the work that is being put into this project.

Mark Deshon, District 5 and BikeNewark, told all that Bike Newark makes a point to distribute bicycle safety information in four other languages besides English to the students. He hoped that it was recognized that Bike Newark is promoting education to prevent injuries or accidents.

Mr. Clifton returned the discussion to the table.

Mr. Clifton asked if the delineation of the lanes is a requirement. Mr. Riegner confirmed that was not the case. He stated the best practice through the design of many trails is that pavement markings do not affect rider or pedestrian behavior. He said the pavement is typically left unmarked.

Mr. Clifton asked Mr. Riegner if he found riders cycling in pedestrian areas and pedestrians walking in cycling areas. Mr. Riegner responded there is not a designated area for people walking and

people bicycling. He noted an example of the Markell Trail between New Castle and Wilmington has experienced volumes as much as 5,000 people per day during peak periods. He said the trail is 10' wide and does not have any markings and there have not been any instances of collisions nor near misses to his knowledge. He noted that is the conventional design.

Mr. Hamilton said in 2018 Council asked was there a buffer included in the price and confirmed that was the case. Mr. Spadafino responded there was a contingency included. Mr. Coleman said it is still in there. He said it is a percentage of the anticipated construction costs. He noted as costs went up, the buffer went up also. He said there is a chance depending on the bidding environment when project is put out for bid. He gave an example of a street contract that came in well under budget. He described the difference in process between a City or private bid and a state bid.

Mr. Hamilton he is a huge fan of the City's Parks & Recreation programs. He agreed with Mr. Clifton in making the bridge width 12'. He expressed he is not happy with the price increase. He preferred that the project proceed in the way it was originally promised. He would prefer to do the higher quality.

Mr. Hamilton said he supports the bridge project until it starts to get out of control. He believed it was going to be a great addition to the park system. He said he does not want to do it cheap. He stated as far as taking things from Dickey Park, he does not support doing so.

Mr. Coleman noted the State of Delaware's calendar is different than the City's calendar. He said according to Mr. Del Grande the \$400,000 will be book as 2019 revenue. He noted that there has been an underperformance in electric and water recently. He announced there are other sources that are available presently that were not available at the time of introduction of the project and noted there could be a budget amendment done as well. He said the check for the bridge will not be written until next year and there is still time to investigate other funding.

Mr. Hamilton suggested to keep the things on it that are presently on it and to add cameras and suggested fining riders not following the law.

Ms. Wallace noted the memo stated, "potential CIP budget adjustments for the shortfall" and she expressed the City is, therefore, not obligated because of it.

Mr. Coleman stated his recommendation to Council now is that have the \$400,000 in hand would be to just use that instead which should be enough to amend the City's budget and the money will not be spent anywhere else anyway.

Ms. Wallace reminded all that the City still has the \$200,000 grant.

Mr. Markham said there are at least two legislators committed to this project that helped secure the funding for this bridge, both for the bridge and for Grant in Aid. Therefore, he said he is in favor of it. He said the less funding that is used, the better. He said he believed Mr. Del Grande would be in favor of that. He announced that he has never seen in all of his years in City Council this type of cooperation amongst Federal, State, County, City, Legislators, etc.

Mr. Horning noted there is \$377,000 for nothing or invest less to get a nice bridge. He echoed Mr. Lawhorn that it is a cost-effective solution at this point to proceed. He noted follow-up would be necessary to provide if something does not go right moving forward from a funding standpoint. He requested that Council revisits the source of potential funding. He agreed with Dickey Park getting that equipment and proceeding with that.

Mr. Spadafino explained Dickey Park is valued as much as the others and the reason it was not on the list because it was the item on the CIP for this year. He announced the timing of the meeting was good because there is still time discuss the hard surfaces is on the topic later in the meeting.

Mr. Clifton announced as a fiscal conservative; his opinion is all of the aforementioned items are equally important to him. He stated that if the projects required use of the reserves, this is the one time he would support doing it.

Mr. Markham requested Mr. Clifton to ask Council the consensus for the motion.

The consensus from the table was unanimous for Option #3.

Mr. Markham stated he did not want to use the recommendation because that is not the direction that was discussed at the meeting. Ms. Bensley stated an appropriate motion, based on the discussion, would be that Council approves Option #3 as presented in the memo by the Parks and Recreation Director as well as amending the 2019 CIP budget to provide additional funding for the White Clay Creek and Emerson Bicycle and Pedestrian Bridge either from reserves or from Grant in Aid funds provided by the state legislature for the fiscal year 2020.

MOTION BY MR. MARKHAM, SECONDED BY MR. LAWHORN: THAT COUNCIL APPROVES OPTION #3 BASED IN THE MEMO TO STAFF USING EITHER GRANT IN AID FUNDING OR TAKING FUNDING FROM RESERVES TO FULLY FUND THE BRIDGE PROJECT.

MOTION PASSED. VOTE: 6 to 0.

Aye – Clifton Hamilton, Horning, Lawhorn, Markham, Wallace.

Nay – 0.

Absent – Hughes.

20. 7. RECOMMENDATIONS ON CONTRACTS & BIDS:

A. Recommendation to Award Contract 19-09 – Annual Street Improvement Program Recommendation

02:09:32

Mr. Filasky announced this is the same project to upgrade the roads around the City of Newark with a \$1,750,000 target yearly. He noted one correction to Option B the total cost recommendation shown for both Option #1 and Option #2. The correction is to recommend only Option #1 totaling \$1,524,185. He said the reason for that is they needed a bit of a “cushion” and it is possible to do a change order for the amount of Option #2 just in case get to that point and have enough money left over in the contract to do additional work under the contract parameters. He said based on the anticipated money left over from the 2018 contract to the 2019 contract, he thought they could give Option #2 but they only want to proceed with Option #1 at this point.

Mr. Filasky addressed the issue that there was only one bid submitted. He announced it was a question of how much work is actually out there. He made note of his confidence of the contractors as they completed the last two contracts with them and again in 2015. Most of the bid items were similar in cost on several items.

Mr. Clifton opened the discussion to questions from the table.

Mr. Hamilton requested dates. He said there is a list, but no dates associated with each street. Mr. Filasky said that would be tough, but he will provide at least a week’s notice.

Mr. Markham said 14 streets, \$1.4 million total, \$100,000 each. He asked would all the streets require the same amount of work. Mr. Filasky responded sometimes it is a simple mill and overlay or sometimes it is a 4 ½ inch rather than a 2 inch it just depends on how long it has been since the road was completed, sometimes it is based on the length of the street. Mr. Markham requested Mr. Filasky provide individual costs of what each street would cost next to each street and the total cost on the list in the future.

Mr. Horning noted the increases from 2018 prices and he noted 22 of the 33-line items were the same, the others line items were reasonable. Mr. Filasky said the actual costs were incrementally higher. He said the list was just for reference. He said that he was unaware that they were the only bidders at the time.

Mr. Coleman recommended to Council that instead of a change of order, he noted there is enough funding in the budget to cover Option items #1 and #2. He suggested that Council approve both Option items #1 and #2 and move forward with only Option #1 until there is an idea of the City’s position financially. He said it is cleaner to do a change of order later and suggested that if the funding was there, move forward with it. Mr. Markham echoed Mr. Coleman and said otherwise there may be a delay and this could prevent Mr. Filasky on moving forward with potential decreased cost.

There was no public comment.

MOTION BY MR. MARKHAM, SECONDED BY MR. HAMILTON: THAT COUNCIL AWARD CONTRACT 19-09 GRASSBUSTERS LANDSCAPING, INCORPORATED FOR THE BASE BID ALONG WITH OPTION #1 AND #2 AS THE LOWEST BIDDER IN THE AMOUNT OF \$1,557,295.

MOTION PASSED. VOTE: 6 to 0.

Aye – Clifton, Hamilton Horning, Lawhorn, Markham, Wallace.

Nay – 0.

Absent – Hughes.

21. 7-B. RECOMMENDATION TO WAIVE THE BID PROCESS FOR ELECTRIC COST OF SERVICE AND RATE DESIGN STUDIES

02:15:22

Mr. Patel said the recommendation was detailed in the packet items and he would answer any questions Council may have.

Mr. Clifton reminded Council of the presentation that was given a while back and opened the discussion to questions from the table.

Ms. Wallace asked Mr. Patel to explain the difference between condominiums in item 2(i). Mr. Patel noted there are commercial customers and residential customers.

Mr. Horning noted the vendor had international experience and have done this work before with other municipalities. He understood the City did not have the expertise in-house to complete all the necessary pieces. Mr. Patel confirmed that the consultants were hired because of their experience and expertise. Mr. Coleman stated their actual proposal value package was less than \$25,000 but did not include very much for travel. He said staff wanted Council to approve up to \$50,000 but wanted to make it clear his expectation was that it would come in lower than that. However, when the last Stormwater Rate Study was done, staff had to return to Council three separate times for contract amendments because the scope kept expanding. He expressed that he wanted to avoid repeat visits and delaying the end project of the rate.

Mr. Markham asked if this included addressing tiers. Mr. Patel responded he would investigate and make sure. Mr. Coleman said the information on tiers would be provided in part two. He noted there are two proposals, one is a cost of service rate study and the second is approval of rate designs. Rate design is number 6. He said a discussion about what is the design will occur when the topic of rate designs ensues.

Mr. Markham asked if there would be a plug in for solar in the system. He thought that may be more of a rate design matter. Mr. Patel responded once a cost of study is completed, there will be a better understanding on how they would like to structure the rate. He noted when the results on Part A is received the next step would be to come back to Council with different options on how to proceed with rate of design. He said at that time, final results can be determined.

Mr. Markham asked if all items had to do with rate design. Mr. Coleman confirmed that was not the case. He responded that there is a little bit of cost of study. If the direction of Council was that they want the City to pursue an additional solar project, that would be a Capital Program which would become a revenue requirement and would happen under the cost of service. He clarified that crosses the line into cost of service or rate of design depending on the intent of the question.

Mr. Markham said the question is if the City should invest into solar and asked if this could be adjusted. He did not want to do a new study because the decision was to move forward on something else. Mr. Patel said that could be included in the cost study.

Mr. Coleman if Council decides after the rate study is done with a five-year term and, for instance, they want to do a \$5 million-dollar project and finance it, DEMEC does it for the City. They would know what the annual lease or debt service payments were, and they could build it into the rate with a slight adjustment.

Mr. Markham asked if it could be adjusted. He wanted to ensure that things were accounted for should this occur. He noted peak usage at 5:00 p.m. He told all that if the peak is 5:00 p.m. people are going to figure that out and begin to adjust their thermostat. He said he did not want to be locked in to 5:00 p.m. as the peak and move forward. He asked if there were distribution costs broken out in this thought. Mr. Patel pointed out that all of that will be accounted in the cost of service. He said then Council will decide the outcome and determine should there be distribution costs or risk design or not.

Mr. Markham asked again if distribution costs would be able to be broken out. Mr. Patel confirmed this is the case.

Mr. Markham referenced the voltage question. He understood the higher the voltage, the less cost. He said that a predecessor adjusted the line voltage on residential because he was aiming for the end of the line being 240. He said the two did not “jive together” to him because the voltage was brought down to save money. He said he may have additional questions on that. Mr. Coleman offered to speak later about clarification on that issue. He said that one of the things that came out of the study with DEMEC is doing more automated control on voltage.

Mr. Markham stated that the previous Director said solar actually allowed them to boost the voltage up. He noted the other two items were electric cars and cars to grid. He asked Mr. Patel to ensure we are not excluding them in any way.

The Chair opened the discussion to the public.

John Morgan, District 1, noted rate studies were being performed quite frequently. He listed the different studies. He asked if it was the main point of this is to find a better way to increase revenue. Messrs. Coleman and Hamilton responded no. Mr. Coleman clarified it is to ensure that enough revenue is generated to cover costs and the correct people are paying that cost. Dr. Morgan hoped that really was the case. He said when 20% of the revenue is going towards other projects, it is understandable that some public members believe that it is another way of enhancing revenue. He said if it is not the primary goal, it is a side benefit. Mr. Coleman stated general practices are that rate studies are performed every 3-5 years and the City has four utilities. He said would put a rate study being done almost every year unless one is doubled up.

MOTION BY MR. HAMILTON, SECONDED BY MS. WALLACE: THAT COUNCIL WAIVE THE BID PROCESS ENTER INTO CONTRACT NOT TO EXCEED \$50,000 WITH UTILITY FINANCIAL SOLUTIONS, LLC. TO PERFORM ELECTRIC COST OF SERVICE STUDY AND RATE DESIGN ANALYSIS.

MOTION PASSED. VOTE: 6 to 0.

Aye – Clifton, Hamilton, Horning, Lawhorn, Markham, Wallace.

Nay – 0.

Absent – Hughes

- 22. 8. **FINANCIAL STATEMENT:** None
- 23. 9. **ORDINANCES FOR SECOND READING & PUBLIC HEARING:** None
- 24. 10. **RECOMMENDATIONS FROM THE PLANNING COMMISSION AND/OR PLANNING AND DEVELOPMENT DEPARTMENT:** None
- 25. 11. **ITEMS SUBMITTED FOR PUBLISHED AGENDA**
 - A. **Council Members:** None
- 26. 11-B. **Others:** None
- 27. **Meeting adjourned at 9:25 p.m.**

Renee K. Bensley, CMC
Director of Legislative Services
City Secretary

/dad